



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Patent Office Board of Appeals

APPLICANT: Huang, S.
SERIAL NO: 10/657,936
FILED: 09/09/2003
FOR: Collapsible Container for
Storage

GAU: 3727
EXAMINER: Grasso, Harry A.
St. Louis, Missouri
Date: March 26, 2007

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MS Appeal Brief
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BRIEF FOR APPLICANT

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Citation of Cases and Statutes

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Cases:

<i>Ex parte Beuther</i> , 71 USPQ 2 nd 1313, (Bd. Pat. App. & Int. 2003)	9
<i>In re Geiger</i> , 815 Fed. 2 nd 686 (Fed. Cir. 1987)	9

Statutes:

35 U.S.C. § 102	6, 7, 11
35 U.S.C. § 103	6, 7, 11



I. Real Party in Interest

The party and interest in this particular application includes just the inventor, Sunny E. L. Huang.

II. Related Appeals and Interferences

There are no related appeals, or interference proceedings, pertaining to the subject matter of this patent application.

III. Status of Claims

The examiner issued a final rejection of this application on September 26, 2006. Applicant filed a Notice of Appeal to this Board of Appeals on or about December 26, 2006.

At this time, it appears that the claims of this application, under appeal, include claims 1, 2, 3, 4, 5, and 11 as amended in an Amendment A filed in the United States Patent and Trademark Office on or about June 14, 2006. These are the claims upon which this Appeal Brief is filed.

IV. Status of Amendments

All of the Applicant's amendments previously filed have been acted upon by the examiner, in the final rejection of September 26, 2006.

V. Summary of the Claimed Subject Matter

The present invention is a collapsible container, specification page 5 line 24, that has a single piece of fabric material, page 5 line 23, locating upon a continuous single piece framework, page 5 line 17. The framework is a resilient material, such as spring steel, page 5 line 21, that supplies a tensile force that holds the container open and expanded when unfolded, page 5 line 22, and snug and compact when folded, page 6 line 14. The continuous framework expands to all of the edges of the piece of fabric material, page 3 line 25-26, so that a container of a desired shape is formed, page 3 lines 12-13. Where the framework connects to the fabric, the fabric has a cowling, page 7 lines 16-18, a generally thicker and more durable fabric, to reinforce the fabric for repeated folding, page 3 line 2.

VI. Grounds of Rejection

The examiner rejected claims 1, 2 under 35 U.S.C. §102 (b) as anticipated by the U.S. Pat. Nos. 4,825,892 to Norman and 5,964,533 to Ziglar. An issue is whether Norman shows a continuous integral framework covered in fabric. A second issue is whether Ziglar shows an open top fabric covering.

The examiner also rejected claims 3, 4, 5, 11 under U.S.C. §103(a) over Norman, Ziglar, and the U.S. Pat. Nos. 6,325,086 to Shinner et al. and 5,975,101 to Zheng. The third issue is whether Shinner has a continuous loop. The fourth issue is whether Norman and Ziglar describe the fabric material as cloth. The fifth issue is whether Norman and Ziglar show triangular shaped framework when collapsed. The sixth issue is whether the sleeve in Zheng extends for less than the entire perimeter.

There appear to be two groups of claims contained in this appeal as identified by the examiner.

The first group relates to claims 1 and 2 which disclose a collapsible container having a resilient framework within a fabric covering.

The second group relates to claims 3, 4, 5, and 11 which further specify features of the framework and the connection of the framework to the fabric covering.

Claims 1 and 2, and claims 3, 4, 5 and 11 will stand separately in this appeal.

VII. Argument

Claims 1, 2:

The examiner has rejected claims 1, 2 under 35 U.S.C. §102 (b) as anticipated by the U.S. Pat. Nos. 4,825,892 to Norman and 5,964,533 to Ziglar for disclosing a collapsible container in the form of the present invention. Norman discloses a quickly collapsible portable structure, such as a tent or a cabana, unrelated to the present invention. The structure has a frame with a portion covered by fabric. However, the frame has two loops interconnecting at a crossover point, Col. 7 lines 9-12, in a figure eight shape, Fig. 21. Additionally the frame has a member twisted 360°, Col. 7 lines 35-37. On the other hand, the present invention has a continuous framework described and shown, Fig. 1, without a crossover and without a twisted frame, specification pg. 5 line 22. Applicant asserts that the crossover point and twisted frame in Norman do not anticipate the features of the present invention.

Second, Ziglar discloses a hamper supported by a plurality of tension members in a framework. The hamper is generally fabric with the framework located upon selected portions of perimeter edges. Ziglar shows various forms of hampers and related containers in its figures. Fig. 26F shows a hamper supported on a wire frame. However, the forms of hamper shown in the figures of Ziglar have at least one top piece as shown by reference character 2. Ziglar generally has two triangular top pieces, Col. 11 lines 10-12. On the other hand, the present invention is shown with an open top, Fig. 1, specification page 6 line 16. Applicant asserts that the two piece cover in Ziglar does not anticipate the present invention.

Claims 3, 4, 5, 11:

The examiner also rejected claims 3, 4, 5, 11 under U.S.C. §103(a) over Norman, Ziglar, and the U.S. Pat. Nos. 6,325,086 to Shinner et al. and 5,975,101 to Zheng. Shinner shows a collapsible tent like structure with walls upon a plurality of coilable separate frames spaced apart by arches of helically wound

fibers. The walls in Shinner are opposing and each is held taught by a continuous loop. Arches space apart the two walls, Col. 11 lines 53-64.

The present invention though has a single continuous framework that supports both sides, the front, and the rear of the container. The framework expands the fabric covering to the extent of its sewn shape, here primarily an open top cube, Fig. 1. The present invention also lacks arches. It is not seen how the two loop construction with arches of Shinner shows the one loop construction of the present invention.

Regarding claim 4, Norman mentions "cloth-like materials" col. 4 line 56 and then further specifies the materials as "commonly used in fabricating tents" col. 4 line 59, generally Nylon and Dacron. Tent materials are generally rugged and abrasion resistant for ground contact, rough handling, and the elements. Ziglar then mentions "light woven natural material" col. 10 line 28, 29 and then further specifies the material as nylon taffeta.

The present invention though uses cloth as its fabric covering. The cloth blends well with indoor décor and allows the walls of the hamper to breathe. Cloth, being primarily cotton based, abrades quickly in rugged conditions and uses. As both Norman and Ziglar specify nylon material for rugged use and abuse, usage of less durable cloth in the present invention is not seen as obvious.

Then for claim 5, Norman discloses a partially folded framework in Fig. 6. The folded framework has the two main portions overlying each other, col. 8 lines 50-55 in the transition from an expanded to a collapsed form. The folded framework of Fig. 6 has a crossover 78 bent in the direction of the straight portion 76, col. 8 lines 52-54. The folded framework then assumes the shape of saddles, col. 8 lines 54-57. Norman then further illustrates the collapse of the framework in Figs. 7-11 where the framework collapses into a compact stack of round loops, Fig. 11. Additionally, Ziglar also shows a frame that collapses into groups of coils folded concentrically, col. 16 lines 10-15. Fig. 12 of Ziglar further shows the coils as round in shape.

In contrast, the present invention flattens and its framework collapses into a compact form of stacked folds. Each of the stacked folds has generally three linear sides connected by acute angles as shown in Fig. 4. Further, the stacked folds are congruent and in parallel planes, also in Fig. 4. The stacked folds of the present invention lack the round form of the coils in Norman and Ziglar. Applicant asserts that a compact triangular collapsed framework and folds in parallel planes are not shown by Norman and Ziglar.

And then regarding Claim 11, Zheng discloses collapsible structures having overlapping loops. The overlapping loops form an upright vertical hinge between two panels. Pairs of panels are then combined into box like shapes. Each panel has a loop upon the complete perimeter, Col. 5 lines 19-20 and Fig. 1A. The overlapping loops generally stretch the panels taught, Col. 5 lines 21-22.

On the other hand, the present invention has walls, as at 8, urged taut and outwardly by the framework, specification page 5 lines 24-26, Fig. 1. The framework extends upon two of the four edges of the top of the container and two of the four edges of the bottom. Upon the front, the rear, and the sidewalls, the framework supports three of the four edges, Fig. 1. The framework separates the walls and holds the front and rear of the container taut. The expansive force of the framework on the front and rear, holds the sidewalls taut when the present invention is open. The present invention attains its unfolded shape without the framework locating upon the entire perimeter of the container. During folding of the invention, the walls of the fabric material, particularly their upper edges, become loose, page 6 lines 8, 10-11, and fold inwardly, within the perimeter of the framework. As Zheng has overlapping loops, where each loop extends upon the entire perimeter of a panel, it is not seen how a framework upon less than the entire perimeter of a panel is obvious.

As the Board knows, obviousness cannot be established by combining teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting that combination. See *Ex parte Beuther*, 71 USPQ2 1313, (Bd. Pat. App. & Int. 2003) and *In re Geiger*, 815 F2d.

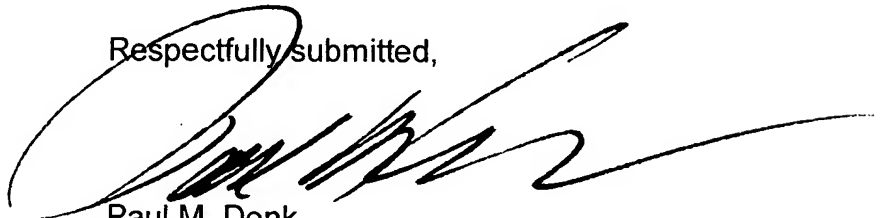
686 (Fed. Cir. 1987). It is not seen where the two loops of Shinner teach the single loop of the present invention, the Nylon fabric in Norman and Ziglar teach the cotton of the present invention, the Norman and Ziglar loops teach a compact triangular collapsed framework, and that Zheng teaches a framework on less than the entire perimeter as in the present invention.

VIII. Conclusion

It is submitted that patentable subject matter is set forth in the remaining claims of this application. The claimed subject matter describes the invention with particularity in the specification and the drawings. It is believed that the claimed subject matter is just not rendered anticipated under 35 U.S.C. §102(b) by the Norman and Ziglar references with twisted crossover loops and a top upon a hamper respectively, as previously reviewed with respect to claims 1, 2. In addition, it is just not seen how the prior art combinations of the Norman, Ziglar, Shinner, and Zheng patents would make it so obvious to one skilled in the art to assemble answering structure that renders the subject matter of claims 1-5, 11 so obvious to one of ordinary skill in the art. Hence, it is believed that the rejection under 35 U.S.C. §103(a) is unsupported.

The Board's review of this matter would be appreciated.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to Paul M. Denk, is written over the signature line.

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APPENDIX (Claims)

Claim 1. A collapsible container for storage comprising:

a continuous one piece framework formed of resilient material to allow the one piece framework to be erected into the structural configuration of the shape of the container desired, and when folded, the collapsible container may be flattened into a non-usable position for storage, said one piece framework formed of a resilient material, capable of naturally extending to its erected configuration for usage, and being forcibly flattened into a laminar condition during non-usage, and,

a piece of fabric material applied over select surfaces of said erected one piece framework, to provide confinement to any objects placed within said container during its usage.

Claim 2. The collapsible container of claim 1 wherein the one piece framework is capable of forming the sides and base structures for the collapsible container.

Claim 3. The collapsible container of claim 2 wherein the one piece framework is formed of one of resilient carbon, or other resilient composite material.

Claim 4. The collapsible container of claim 3 wherein said piece of fabric is formed of one of cloth, or other covering material.

Claim 5. The collapsible container of claim 4 wherein the container, when flattened, is capable of forming into a triangular laminar structure.

Claim 11. The collapsible container of claim 4 wherein said piece of fabric material forming the covering includes cowling upon its upper edge, and which cowling closes the upper edge of the side walls for the formed framework.

APPENDIX (Evidence)

The Applicant has not submitted evidence pursuant to 37 CFR §§ 1.130, 1.131, and 1.132 nor other evidence and thus, there is no related evidence provided in this appendix.

APPENDIX (Related Proceedings)

No other related appeals have resulted in a decision by a court or the Board bearing upon this application and appeal, and thus, there are no related decisions provided in this appendix.